

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

DANIEL BRYAN KELLY,)
)
 Plaintiff,) CIVIL ACTION NO.
)
 v.) 2:05cv1150-MHT
)
 RICKY OWENS, etc., et al.,)
)
 Defendants.)

ORDER

After an independent and de novo review of the record, it is ORDERED as follows:

- (1) The objections (doc. nos. 75 and 79) are overruled.
- (2) The recommendation of the magistrate judge (doc. no. 71) is adopted.
- (3) The motion to dismiss (doc. no. 43) is granted to the extent that the following claims against defendant Ricky Owens are dismissed: (a) The Eighth Amendment claims; (b) all claims against defendant Owens in his official capacity; and

(c) the Fourteenth Amendment claims based on "failure to train jail staff."

(4) The motion to dismiss (doc. no. 43) is denied to the extent that the following claims against defendant Owens are not dismissed: (a) "deliberate indifference to medical care" claims in counts I and II; (b) "unconstitutional conditions of confinement" claim in count III; and (c) "unconstitutional failure to prevent excessive force" claim in count V.

It is further ORDERED that this cause is referred back to the magistrate judge for further appropriate proceedings.

DONE, this the 4th day of December, 2006.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE